

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

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Petition of Lockheed Martin IMS, the North )

American Numbering Plan Administrator, )

for area code relief for the 508, 617, 781 and ) D.T.E. 99-11

978 area codes in Eastern Massachusetts. )

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REPLY COMMENTS

OF

SOUTHWESTERN BELL MOBILE SYSTEMS, INC. d/b/a

CELLULAR ONE and SNET CELLULAR, INC.

Southwestern Bell Mobile Systems, Inc. d/b/a Cellular One ("Cellular One") and SNET Cellular, Inc. submit the following reply comments regarding the method for area code relief in eastern Massachusetts.

I. ALL PARTIES THAT HAVE SUBMITTED INITIAL COMMENTS ON THE CHOICE BETWEEN THE OVERLAY AND SPLIT OPTIONS SUPPORT THE OVERLAY APPROACH.

There is unanimous agreement among all parties that submitted initial comments to the Department on the choice between the overlay and split options that the overlay option is the best approach. No party has supported the geographic split approach. In addition to Cellular One and SNET Cellular, Inc., Bell Atlantic Mobile, Sprint PCS, Bell Atlantic-Massachusetts, Focal Communications, AT&T and Omnipoint all support the overlay approach.

Certain parties that in the past have supported geographic splits, now believe that the overlay approach is best for eastern Massachusetts. In D.P.U. 96-61, AT&T supported geographic splits. However, in this proceeding AT&T indicates that circumstances in eastern Massachusetts have changed since the Department's order in D.P.U. 96-61 was issued and that the overlay method would now be the most effective solution to the current shortage of telephone numbers. AT&T states that with the implementation of local number portability ("LNP") in Massachusetts, any anti-competitive effects that might result from an overlay have been reduced. Also, AT&T believes that since the 781 and 978 area codes are relatively new, customers are less likely to think that these area codes would be preferable to new overlay area codes. AT&T Initial Comments, pp. 5-6. Sprint PCS has also changed its position since D.P.U. 96-61. In D.P.U. 96-61, Sprint PCS favored splits, but now it supports overlays in light of the negative reaction customers have had to the relatively frequent telephone number changes that are caused by splits. Sprint PCS Initial Comments, p. 10, fn. 20.

II. THE DEPARTMENT SHOULD NOT ADOPT A SERVICE-SPECIFIC OVERLAY.

With the exception of Omnipoint, all of the parties that filed initial comments on the use of service-specific overlays oppose any type of service-specific or technology-specific overlay. Sprint PCS Initial Comments, p. 9; AT&T Initial Comments, p. 15; Nextel Initial Comments; Bell Atlantic-Massachusetts Initial Comments, p. 12; Bell Atlantic Mobile Initial Comments, p. 6. As the comments

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clearly demonstrate, the Federal Communications Commission ("FCC") currently prohibits states from adopting service-specific or technology-specific overlays. The FCC has determined that an area code overlay that segregates a particular type of carrier or technology into a single area code would be anti-competitive and discriminatory to that type of carrier or technology. For example, an overlay created only for wireless carriers would unreasonably discriminate against wireless carriers and would favor wireline carriers who would not be required to use the new wireless area code. As a result, wireless overlay codes are prohibited under the FCC's rules.

A wireless overlay area code that required existing wireless customers to give up their current telephone numbers and be assigned a number in the new wireless overlay area code (resulting in a "take-back" of existing wireless numbers) would be even more discriminatory to wireless carriers and their customers than a wireless overlay that applied only to new wireless telephone numbers. Under the "take-back" scenario, existing wireless customers and carriers would be required to bear the expense and disruption of switching existing customers into the new wireless overlay area code, which would entail extensive reprogramming of existing wireless telephones. As Cellular One and SNET Cellular, Inc. demonstrated in their initial comments, such mandatory reprogrammings would create widespread inconvenience and would create huge costs for wireless customers and wireless carriers in Massachusetts. Similar costs would not be borne by the wireline carriers, and thus a wireless overlay that required a "take back" of wireless numbers would have serious anti-competitive and discriminatory effects on wireless carriers. Cellular One and SNET Cellular, Inc. Initial Comments, pp. 8-10, Appendix A, pp. 5, 10.

Furthermore, a wireless-only overlay would do little, if anything, to relieve the shortage of numbers in the existing 617, 508, 781 and 978 area codes. The wireless industry holds a relatively small percentage of the NXX codes in these area codes when compared to the wireline industry. Bell-Atlantic-Massachusetts indicates that approximately 90% of the new NXX codes in the 617, 508, 781 and 978 area codes have been taken by CLECs, not wireless carriers. Bell Atlantic-Massachusetts Initial Comments, p. 8, fn. 11. Wireless carriers are also much more efficient in their use of NXX codes than are CLECs. This is because, unlike CLEC service areas, wireless service areas are not constrained by the location of Bell Atlantic-Massachusetts rate centers. Therefore, a wireless carrier can serve the same number of customers as a CLEC with far fewer NXX codes. Consequently, a wireless overlay, even one that required the "take back" of existing wireless numbers, would not provide any significant relief for the 617, 508, 781 and 978 area codes which are now close to exhaust. Bell-Atlantic-Massachusetts Initial Comments, p. 13; Sprint PCS Initial Comments, pp. 7-8.

Omnipoint is the only party to support a wireless overlay. However, Omnipoint does not address in its comments the FCC's prohibition of such overlays. It also proposes two overlay options: an expanded overlay that extends over Massachusetts, Rhode Island, Maine, New Hampshire and a portion of Vermont, and one that covers all of Massachusetts. Omnipoint Initial Comments, p. 2. The expanded overlay proposal raises a number of jurisdictional issues that cannot be resolved in this proceeding, since it would require the approval of the other states. The all-Massachusetts overlay proposal would appear to be beyond the scope of this proceeding which covers only the 617, 508, 781 and 978 area codes.

III. THE GRANDFATHERING OF TYPE II WIRELESS CUSTOMERS, IF THE DEPARTMENT WERE TO ADOPT GEOGRAPHIC SPLITS, WOULD NOT ELIMINATE THE BURDEN OF REPROGRAMMING WIRELESS TELEPHONES FOR TYPE I WIRELESS CUSTOMERS.

AT&T, Sprint PCS, Bell Atlantic Mobile, Cellular One and SNET Cellular, Inc. all support the "grandfathering" of Type II wireless customers, in the event that the Department adopts geographic splits, and no party in this proceeding has objected to such grandfathering. The grandfathering of Type II customers was allowed by the Department in D.P.U. 96-61-A (May 2, 1997) when geographic splits were ordered for the 508 and 617 area codes. This grandfathering saved the vast majority of wireless customers in eastern Massachusetts from the expense and disruption of telephone

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reprogramming. This procedure should be followed again, should geographic splits be adopted.

Although the majority of wireless customers in eastern Massachusetts are Type II customers, there are a certain number of Type I customers, which cannot be grandfathered if a split is adopted. A Type II customer receives its number out of an NXX code that is fully dedicated to the wireless carrier. A Type I customer receives its number from an NXX code that the wireless carrier shares with Bell Atlantic-Massachusetts. D.P.U. 96-61, p. 17. Since Type I customers cannot be grandfathered if a split is adopted, Type I wireless customers and their carriers would be required to bear the expense and disruption of switching to the new area code.

The existence of some Type I wireless customers in Massachusetts makes the overlay approach even more desirable, because an overlay avoids altogether the problem of the Type I customers who would be unduly disadvantaged if the Department were to adopt splits.

#### IV. THE OVERLAY APPROACH SATISFIES BOTH THE DEPARTMENT AND FEDERAL GUIDELINES FOR AREA CODE RELIEF.

The overlay approach proposed in this proceeding satisfies the federal guidelines for area code relief that the Department set forth in its Notice for this proceeding. D.T.E. 99-11, Notice of Public Hearings and Procedural Conference, dated January 8, 1999. These guidelines require that an overlay proposal: (1) facilitate entrance into the communications marketplace by making number resources available on an efficient and timely basis; (2) not unduly favor or disadvantage any particular industry segment or group of customers; and (3) not unduly favor one technology over another.

The overlay approach would make new numbers available in eastern Massachusetts more efficiently and sooner than would the split approach. As noted in the initial comments, overlays tend to use numbers more efficiently than splits, and the time period required to implement overlays is shorter than the time period required to implement splits. Thus, the adoption of overlays would provide the Department with more time, and therefore more flexibility, in making new numbers available in eastern Massachusetts. Assuming that a wireless-only overlay is not adopted by the Department, the overlay approach will apply equally to all technologies and services and, therefore, will not favor or disadvantage any particular industry or customer group.

The overlay approach also satisfies the Department's traditional criteria for area code relief which include the principles that area code relief should minimize customer confusion and forced number changes and not divide or disrupt communities of interest. D.P.U. 96-61 (1997), p. 15. Given that four area codes already exist in eastern Massachusetts, an overlay will minimize customer confusion and forced number changes. Since no current customers will be required to change their telephone numbers with an overlay, an overlay will not divide communities of interest in the way that a split would.

#### V. CONCLUSION.

In light of the overwhelming support for the overlay approach expressed by the carriers participating in this proceeding and the individuals, businesses and non-profit organizations that appeared at the public hearings, the Department should act quickly to adopt overlay area codes to provide for area code relief in eastern Massachusetts.

Respectfully submitted,

CELLULAR ONE

SNET CELLULAR, INC.

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CERTIFICATE OF SERVICE

I, Robert L. Dewees, Jr., certify that on March 19, 1999 I served the foregoing Reply Comments of Cellular One and SNET Cellular, Inc. upon all parties to this proceeding.

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Robert L. Dewees, Jr.

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